



Baton Rouge Police Department
Annual Review of Pursuits
January 1, 2021 to December 31, 2021



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Baton Rouge Police Department

Annual Review of Police Pursuits
2021

Executive Summary

Vehicle Pursuits 2021

Summary

The ratio of pursuits to calls for service (CAD) is 0.06%. This rate has continued to increase over the last six years (from 0.019% in 2013). It is believed this may be due to an increased emphasis on reporting pursuits beginning in late 2013. The number of pursuits conducted in 2021 (120) is above normal expectations (80).

The ratio of pursuits to arrests in 2021 is approximately 1.7%. This has increased from 0.25% in 2009 and from 0.69% in 2016.

Approximately 69.2% of 2021 vehicle pursuits ended in arrest.

The policy complies with the CALEA standard for pursuits.

The data indicates that a number of pursuits were ended by the officers (10%). This indicates that this portion of the policy continues to be used.

Overview

Motor vehicle pursuits have been one of the most difficult law enforcement activities for a department to manage. In each case, the officer(s) conducting a pursuit must be aware of many factors such as duty, risk to the officer and the public, and the consequences of not pursuing a fleeing suspect. The consequences of a pursuit can include traffic accidents, injuries, death, emotional distress, financial loss and negative public relations events. Additionally, every pursuit can end up being litigated in the courts, further raising costs and consuming resources.

When possible, the best pursuit is one that never happens by reducing or eliminating the opportunity to flee by using tactics to surround a suspect before he or she can attempt to flee. This has been and continues to be the Baton Rouge Police Department's goal. When this is not possible, we have General Order 136 which governs how a pursuit should be conducted, reported, and analyzed on a case by case basis. This policy also calls for an annual review of pursuits to evaluate the policy to ensure that the systems are functioning properly, and to weigh the cost and benefits of conducting pursuits.

While some departments have a "no pursuit" policy, the Baton Rouge Police Department has elected to allow pursuits. This policy allows our department to balance the costs and benefits of a pursuit against the hidden cost to society of not pursuing a fleeing suspect. The hidden cost to society can be best defined as the potential increase in crime and disorder.

A pursuit is defined under our policy as "An active attempt by an officer in an authorized emergency vehicle to apprehend suspects who are attempting to avoid apprehension through evasive and unlawful tactics." In "Reducing the Risks of Police Pursuit" (Steven Ashley), pursuits are further defined as:

"The act of attempting apprehension of a fleeing vehicle, once the operator has given some indication of his or her intent not to stop or yield. This indication can be by increasing speed, bypassing traffic control devices or other means."

During the first phase in conducting a pursuit, the officer and his supervisors must conduct a duty/risk analysis. This duty/risk analysis is defined as weighing the duties of an officer against the risks of a pursuit and leaving the suspect free. The following statement drawn from Louisiana court proceedings (730 So.2d 958, 1997-2804 (La. App. 1 Cir. 12/28/98)) defines the duty required of officers.

“Generally, a police officer, in carrying out his authority to enforce laws, has the duty to act reasonably to protect life and limb, to refrain from causing injury or harm, and to exercise respect and concern for the well being of those he is employed to protect.” Further, “In effectuating arrest, a police officer has a duty to act reasonably, and force used must be limited to that required under the totality of circumstances, and reasonableness of officer’s actions depends upon the totality of facts and circumstances of each case.” Finally, “In determining whether a police officer has fulfilled duty to act reasonably in effectuating arrest, officer’s actions need not be the best method of approach, but instead standard of care requires choosing the course of action which is reasonable to the circumstances.”

The second phase of this analysis is the public harm risk. Referencing “Reducing the Risks of Police Pursuit”, public harm risk is defined as:

“The degree of risk to the public posed by the actions of the suspect, usually equated with the initial act that gives rise to the pursuit. The risk is generally composed of two elements: the risk inherent in the initial act or crime committed by the suspect, and the risk faced by the public should the suspect be allowed to escape and remain at large.”

The job of the officer and supervisor is to balance the risks associated with a pursuit against the officer’s duty. During a pursuit, the officer and supervisor must constantly evaluate the decision to pursue. At any point a decision may be made to terminate the pursuit, as allowed in our policy by the following statement: “A decision to terminate a pursuit may be the most rational means of preserving the lives and property of the public as well as the officers and suspects engaged in the pursuit. A pursuit may be terminated at any time by the primary pursuing officer or a supervisor” (G.O.136 XIII A). The section goes on to describe factors that should be considered in making this decision.

Any evaluation of a decision to pursue or not pursue should not be based upon the 20/20 hindsight after the event and should be evaluated by what a reasonable and prudent officer would have done if confronted with the situation. The evaluation should also take into account the physiological, psychological, and environmental factors surrounding the entire pursuit process.

The purpose of this study is to evaluate our pursuit policy (not individual pursuits), to ensure that the policy that is in place is being followed, to conduct a cost-benefit analysis of our pursuits (excluding litigation), and expose general patterns that can be used to better understand our pursuits.

CALEA requires that we have a pursuit policy with certain required elements and that we cross reference this policy to the deadly force policy. This is covered in General Order 136.X.II.

The various elements considered will be:

- Frequency of reporting
- Reasons for starting a pursuit
- Reasons a pursuit ended
- Cost of pursuits
- Success of pursuits
- Type of Charges resulting
- Frequency of pursuits
- Geographical and temporal factors
- Offender characteristics
- Comparison to IACP model policy and CALEA requirements

A final function of the review is to provide a basis for modifying our training if needed to address specific issues in pursuits conducted by the Baton Rouge Police Department.

Recent Court Decisions

In 2014, a decision was made after the US Supreme Court heard the case involving Officer Vance Plumhoff v. Donald Rickard. It was decided that “the officers were entitled to qualified immunity because they violated no clearly established law.” This case originated from officers using deadly force to stop Rickard from harming/killing anyone with his vehicle after he had already collided with an officer’s police unit during the pursuit. Rickard was accelerating even though “his bumper was flush against a police cruiser.” After this occurred, an officer fired three shots into Rickard’s vehicle. Rickard then “reversed in a 180 arc and maneuvered onto another street, forcing Ellis (another officer) to step to his right to avoid the vehicle.” Officers fired additional shots at Rickard’s vehicle as he continued to flee down the street. “Rickard then lost control of the car and crashed into a building.” Rickard and the passenger both died as a result of this event. The Opinion of the Court stated “under the circumstances present in this case, we hold that the Fourth Amendment did not prohibit petitioners from using the deadly force that they employed to terminate the dangerous car chase that Rickard precipitated.”

Reference: Supreme Court Ruling: https://www.supremecourt.gov/opinions/13pdf/12-1117_1bn5.pdf

In 2007, the US Supreme Court heard “Scott v. Harris” and decided that Deputy Scott did not use excessive force in ramming Harris’s vehicle during a pursuit. The ramming resulted in Harris being left a quadriplegic. The court applied the reasonableness test to Deputy Scott’s actions and felt that Harris had “intentionally placed himself and the public in danger” by participating in a high speed pursuit. The ruling of the court in an 8-1 decision was:

“The court rules that a police officer’s attempt to terminate a dangerous high-speed car chase that threatens the lives of innocent bystanders does not violate the Fourth Amendment, even when it places the fleeing motorist at risk of serious injury or death.”

A key piece of evidence in the court’s decision appears to have been the video of the pursuit from the deputy’s dash camera. Justice Scalia stated that Harris’s statements to the lower courts gave the following:

“Indeed, reading the lower court’s opinion, one gets the impression that respondent, rather than fleeing from police, was attempting to pass his driving test.”

The video clearly shows this viewpoint to be false.

Key points from the ruling are:

- The case was not about the PIT maneuver. It was clearly deadly force by ramming.
- The court placed the blame on the suspect and rejected the idea of cancelling the pursuit as being safer to the public. The ruling states in part:
 - “. . . we are loath to lay down a rule requiring the police to allow fleeing suspects to get away whenever they drive so recklessly that they put other people’s lives in danger. It is obvious the perverse incentives such a rule would create.”
- The suspect had been dishonest in his account and Deputy Scott was protected because the incident was taped.

Reference: Supreme Court Ruling: <http://www.supremecourtus.gov/opinions/06pdf/05-1631.pdf> and <http://www.policeone.com/suspect-pursuit/articles/1242114-Scott-v-Harris-The-Supreme-... 5/12/2015>

These cases reinforce current BRPD policy, which allows pursuits.

In October 2010, The US Supreme Court heard “Sykes v. United States”. This case involved an Indiana law defining vehicular flight as a violent felony. Wikipedia provides the following summary of the ruling.

“Sykes v. United States, No. 09-11311 (2011), was a case in which the Supreme Court of the United States held that felony vehicle flight, as proscribed by Indiana law, is a violent felony for purposes of the Armed Career Criminal Act (ACCA). Writing for the majority, Justice Kennedy wrote that vehicle flight requires officers to give chase, resulting in more injuries on average than burglary. Dissenting, Justice Scalia criticized the majority for producing an ad hoc judgement based on vague legislation.”

Louisiana law (LRS 14:108.1 c, d, and e) defines aggravated flight from an officer as a felony. This ruling appears to affirm the Louisiana statute’s classification of the crime and would subject persons violating it to the terms of the ACCA. An excerpt from the opinion reads:

“Congress chose to frame ACCA in general and qualitative, rather than encyclopedic, terms. It could have defined violent felonies by compiling a list of specific covered offenses. Under the principle that all are deemed to know the law, every armed felon would then be assumed to know which of his prior felonies could serve to increase his sentence. Given that ACCA “requires judges to make sometimes difficult evaluations of the risks posed by different offenses,” this approach could simplify adjudications for judges in some cases. *James*, 550 U. S., at 210, n. 6.

Congress instead stated a normative principle. The residual clause imposes enhanced punishment for unlawful possession of the firearm when the relevant prior offenses involved a potential risk of physical injury similar to that presented by burglary, extortion, arson, and crimes involving use of explosives. The provision instructs potential recidivists regarding the applicable sentencing regime if they again transgress. It states an intelligible principle and provides guidance that allows a person to “conform his or her conduct to the law.” *Chicago v. Morales*, 527 U. S.”

The ruling appears to affect the prosecution of the crime more than the actual enforcement, but it does reinforce the concept of a pursuit as a violent crime that places persons’ lives in danger.

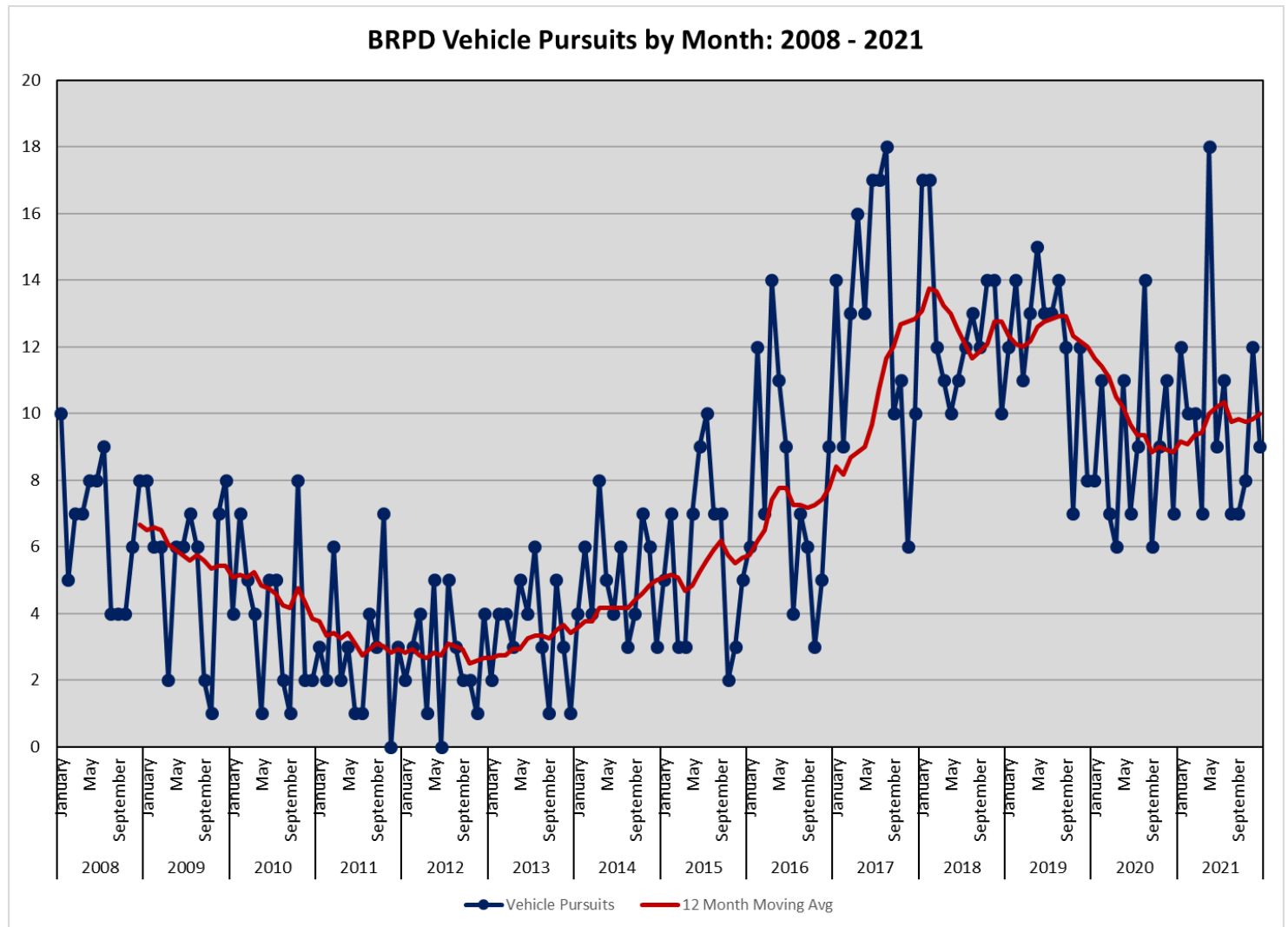
Data Sources

The primary sources of data for the pursuit study are the Vehicle Pursuit Reports required for each pursuit conducted by the Baton Rouge Police Department under General Order 136. Additionally, extensive searches were conducted on the Internet for recent policies, pursuit related studies, and legal cases pertaining to vehicle pursuits. The Vehicle Pursuit Report’s information was entered into a database by the Internal Affairs division.

Frequency of Reporting

During the period from 01/01/2021 through 12/31/2021, 120 vehicle pursuit reports were created by BRPD officers and entered into its Internal Affairs database. A comparison police vehicle pursuit study for 2012-2013 was conducted using the 2013 Law Enforcement Management and Administrative Statistics (LEMAS) data and produced by the Bureau of Justice Statistics in May 2017. In this study, they found that “local police conducted 8 vehicle pursuits per 100 officers employed.” This implies we would have approximately 48 vehicle pursuits for the Baton Rouge Police Department. However, in 2012, the study also found “the rate of vehicle pursuits was highest among agencies with a policy that left pursuit decisions to an officer’s discretion (17 pursuits per 100 officers employed).” This study would put us above expected levels of at least 102 (as of the March 1, 2021 report, it shows BRPD having 600 sworn personnel, with 405 being sworn police officers).

The following graph shows the frequency of reports by month:

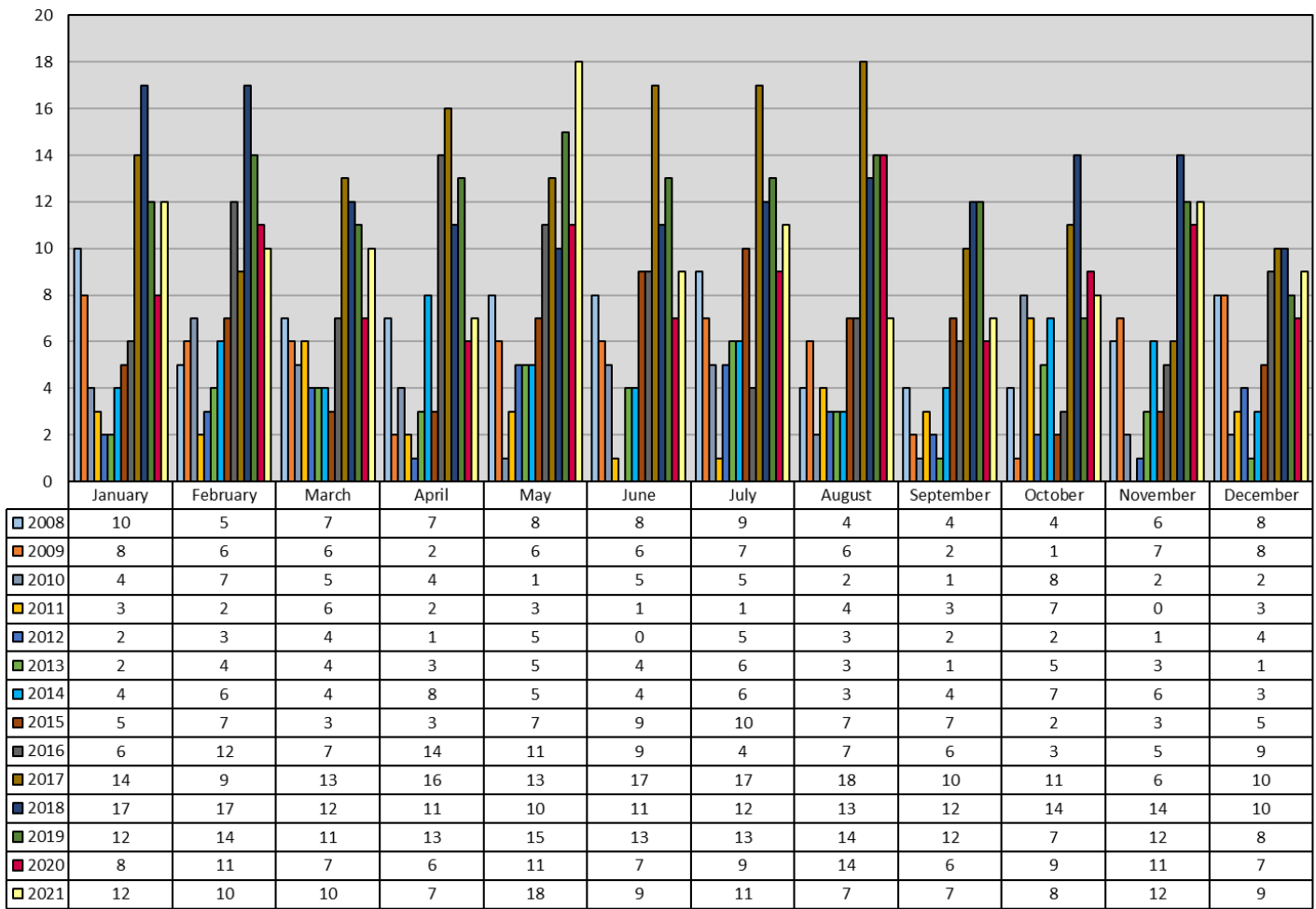


The average number of pursuits conducted by the Baton Rouge Police Department is 7.13 per month for 2008 through 2021. Our 2021 12 month average is 10 per month and the yearly average has been increasing since the end of 2012 through 2017. The average started flattening out between 2018 and 2019 then turned downward towards the end of 2019. The average has continued to stay lower than previous years through 2021. Around the end of 2014, beginning of 2015, a more in-depth look at pursuits was conducted using ADSi as a basis for comparison. It was determined that there were reports missing, but the specific reason or reasons were unknown and unable to be pinpointed. The lack of reports may have been due to reports getting lost, reports not being entered, officers not writing a report, pursuits not actually being conducted, etc.

The monthly expected count of pursuits per month is between 9 and 10. The monthly pursuit counts for the 2021 analysis were mostly at or above expectations for 8 out of 12 months.

The following graph examines the count of pursuits for each month of each year, from 2008 - 2021.

BRPD Vehicle Pursuits by Month and Year: 2008 - 2021



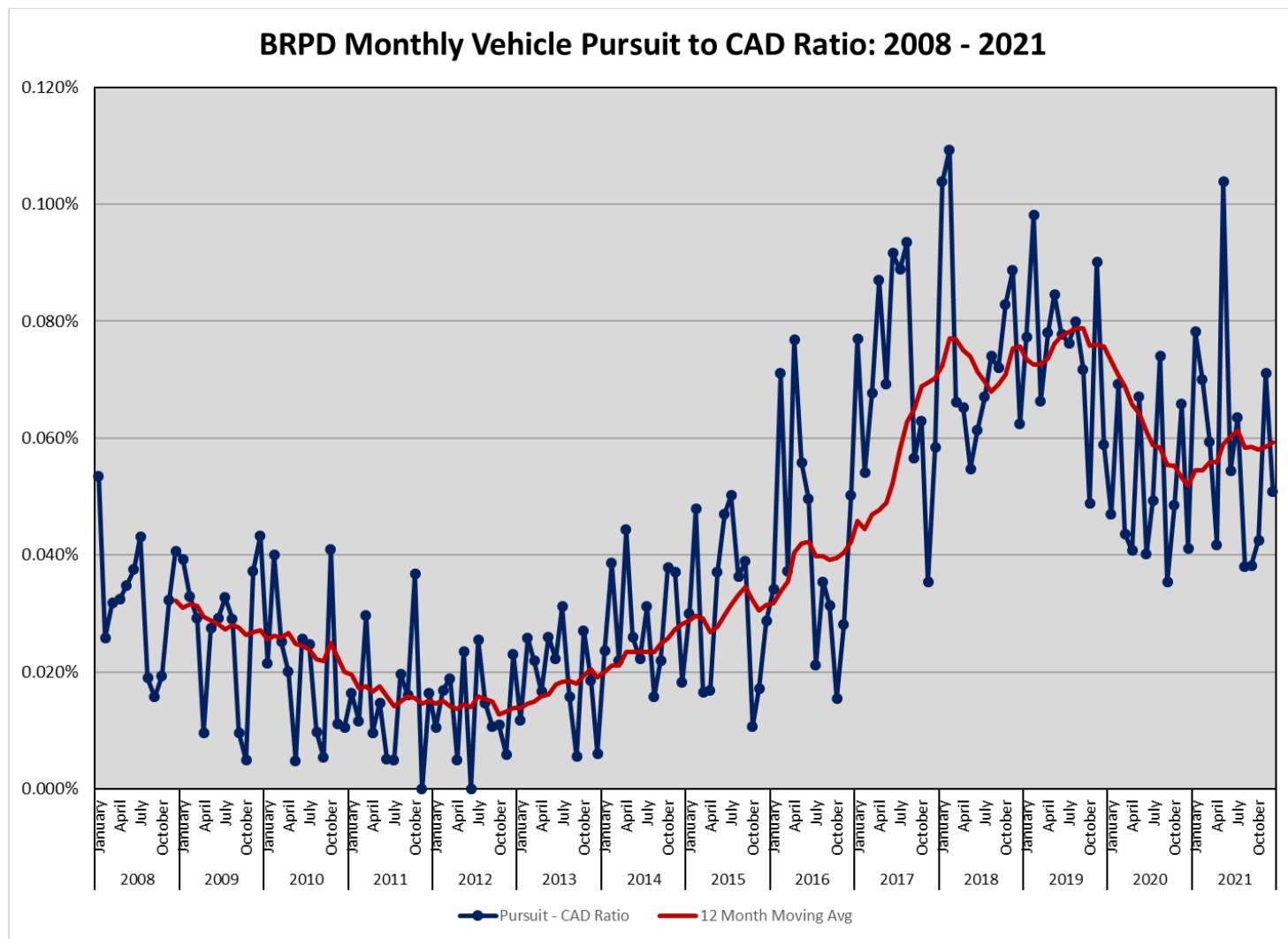
Unlike “Use of Force” studies examined, there are no consistent pursuit policies or data collection methods existing that will allow comparison between agencies. For internal comparisons of this study, the Baton Rouge Police Department established the following method for comparisons:

$$\text{Pursuit percentage} = \text{Number of pursuits/Calls for service}$$

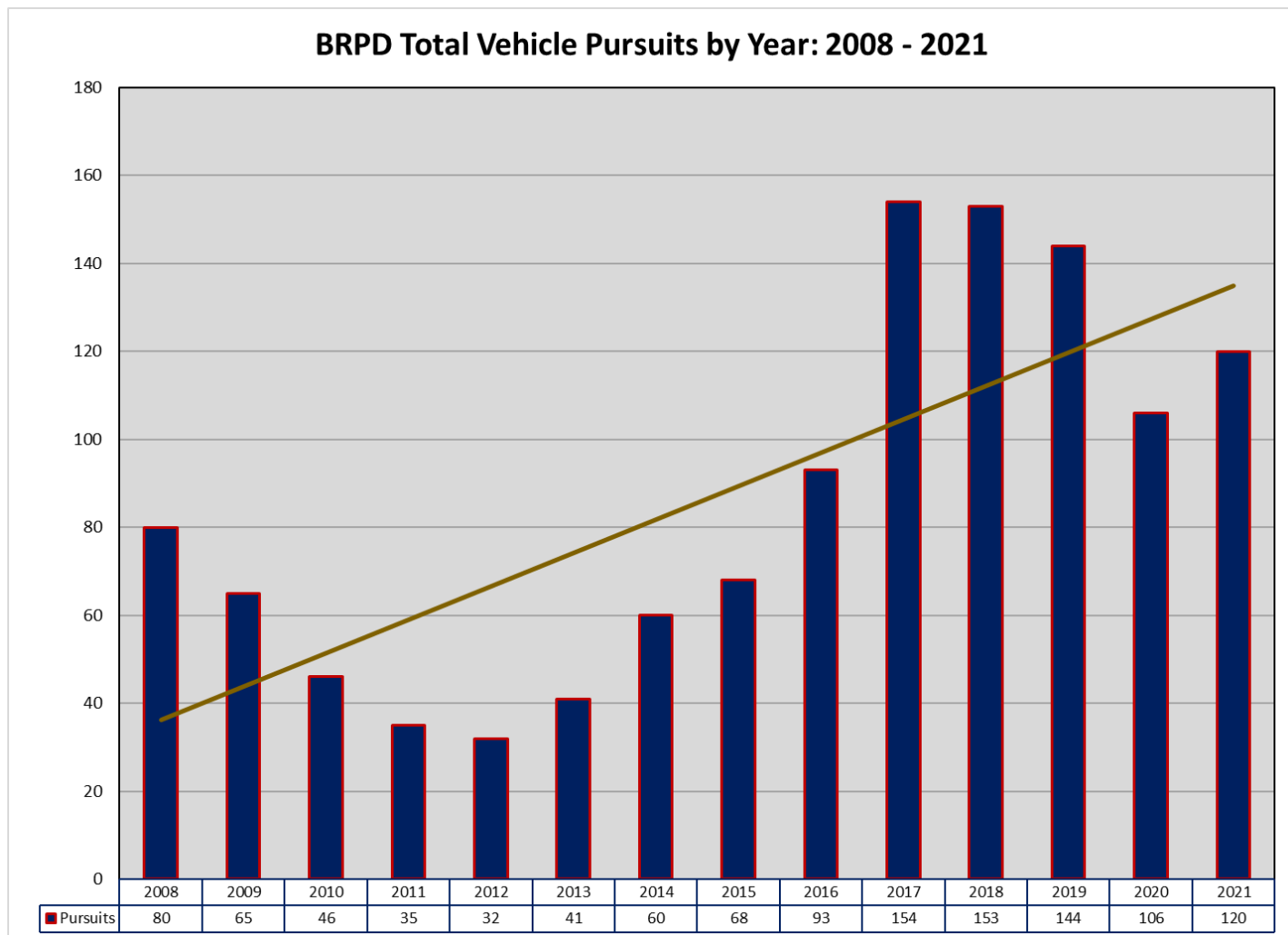
For this study period (01/01/2021 through 12/31/2021), the percentage is calculated as follows:

$$\text{BRPD Pursuit percentage} = 120/204,492 = 0.06\% \text{ of calls for service}$$

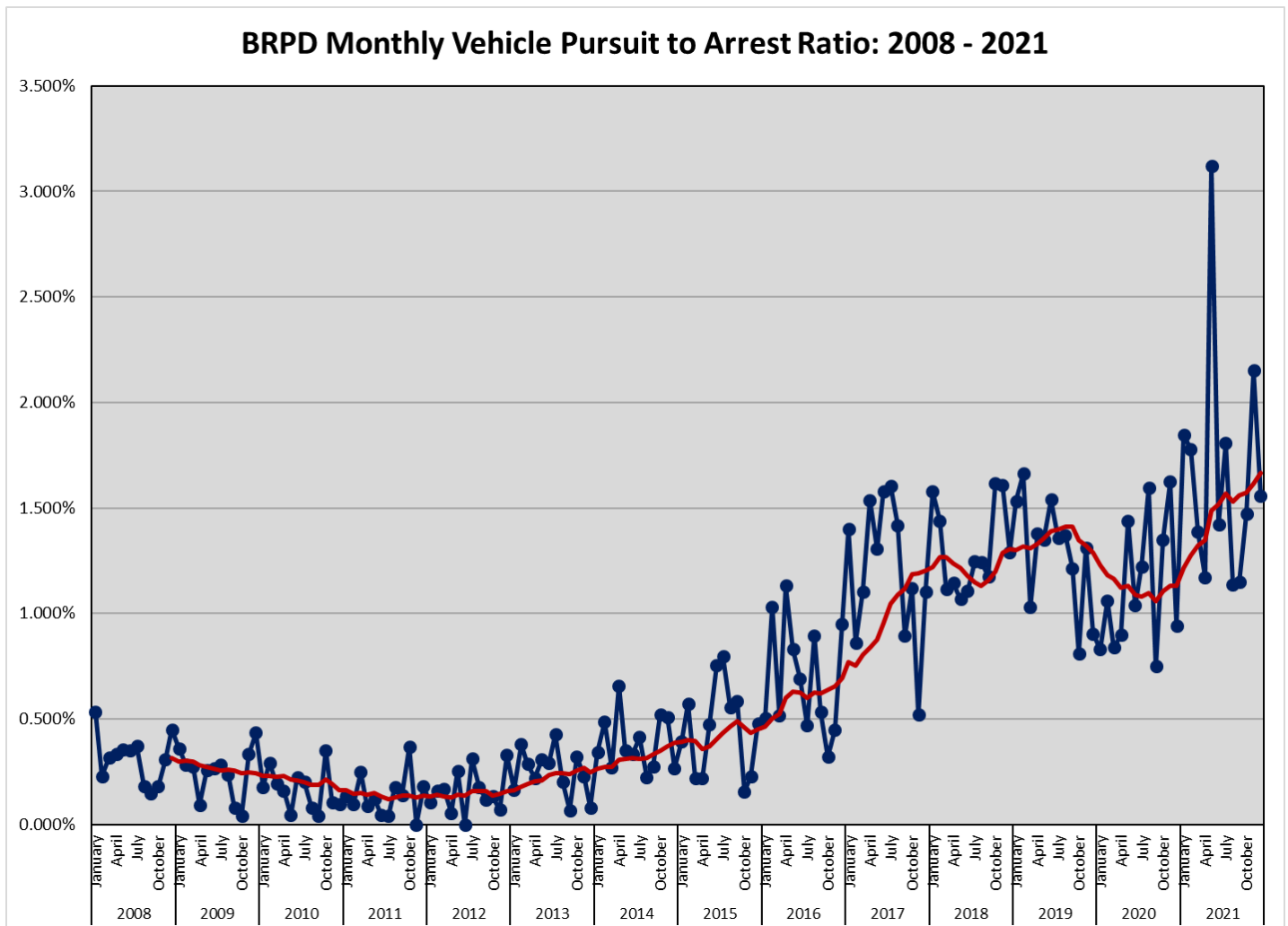
The chart below shows the monthly pursuit to CAD ratio since 2008.



Shown in the next chart is the total number of reports submitted in each year. The number of pursuits being conducted by the Baton Rouge Police Department had declined significantly since 2002 after the adoption of our current policy and reporting method. The total number of reports recorded declined significantly from 2008 to 2012. In 2013, the number of pursuits increased. This increase has continued thru 2018, but slightly tapered off in 2019 continuing into 2020. In 2021, we experienced a slight increase in number of vehicle pursuits when compared to 2020.



The chart below shows the ratio between pursuits and arrests. In 2008, the ratio of pursuits to arrests was approximately 0.3% or 3 arrests out of every 1000 involved a pursuit. This ratio declined to 0.14% in 2011. Since that time, the ratio has continued to increase over the years, hitting 0.39% in 2014, 0.69% in 2016, 1.29% in 2019, and slightly down to 1.1% in 2020. This has slightly increased in 2021 to 1.7%.



Start and End of Pursuits

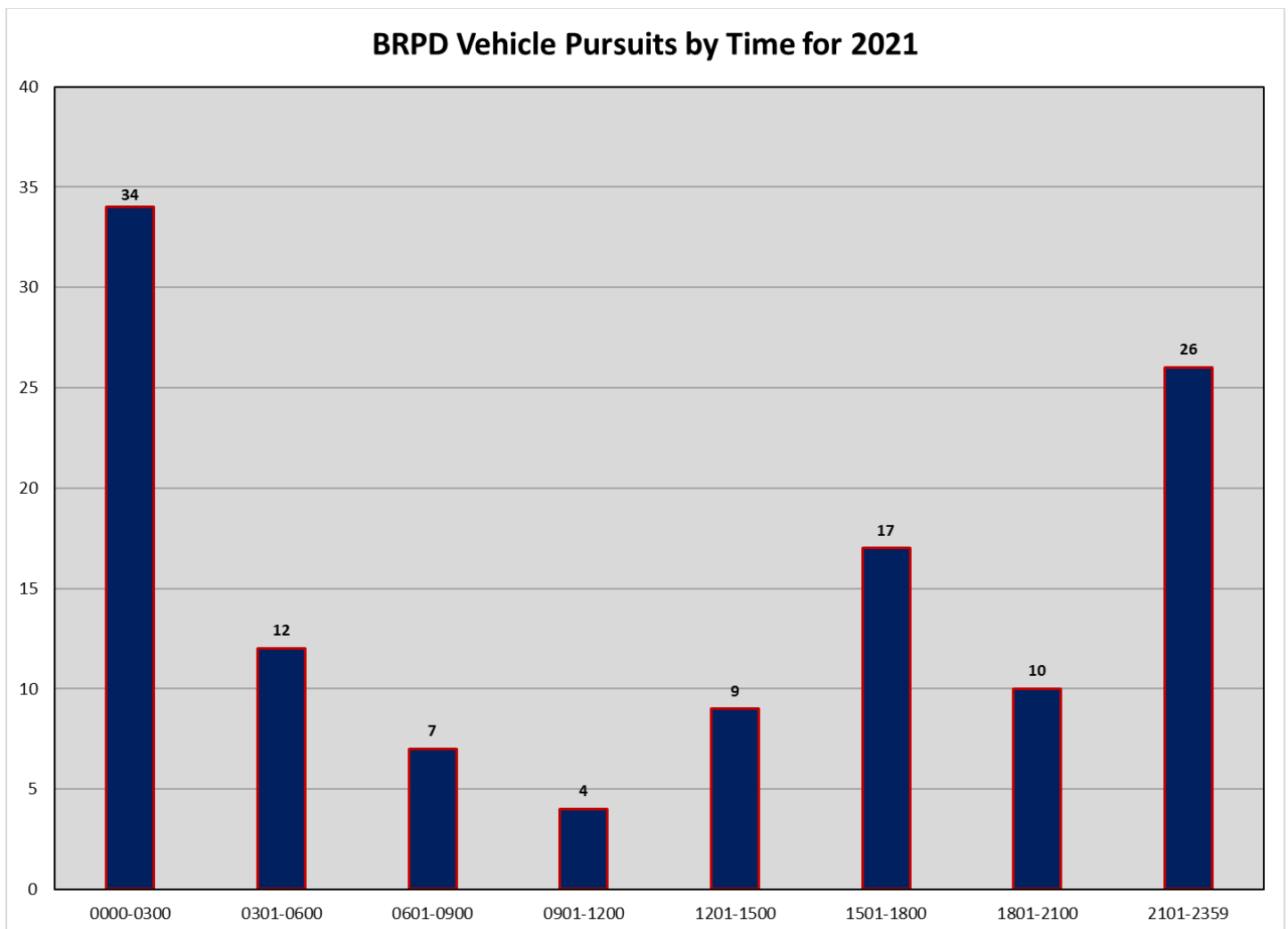
There are many reasons a vehicle pursuit can begin and end. Over 60% of the Baton Rouge Police Department's vehicle pursuits were initiated due to a traffic violation. 69.2% of the vehicle pursuits ended in arrest, followed by 11.7% ending because of suspect escape. Refer to the following two tables for a breakdown of reasons for the start and end of the vehicle pursuits in 2021 by the Baton Rouge Police Department. Note that some did not have any entries for initiation.

Reasons for Start of BRPD Vehicle Pursuits in 2021	
Reason Started	Total
Non-Violent Felony	20
Non-Violent Misdemeanor	7
Traffic	75
Violent Felony	14
Violent Misdemeanor	1
Other	3
Grand Total	120

Reasons for End of BRPD Vehicle Pursuits in 2021	
Reason Ended	Total
Arrest	83
Crash	9
Escape	14
Other	2
Voluntary Officer Termination	12
Grand Total	120

Temporal Breakdown

Over a quarter of Baton Rouge Police Department's vehicle pursuits occurred between 0000 and 0300 hours (28.6%). Vehicle pursuits occurring between 2101 and 2359 were at 21.9%, followed by 1501 to 1800 hours, accounting for 14.3% of vehicle pursuits. Note that one did not have any time entry and these totals are out of 119 pursuits.



Comparison of the Baton Rouge Police Department Pursuit Policy to IACP Model Policy

The policy of the Baton Rouge Police Department has one major variance from the model policy of the IACP. The model policy calls for a pursuit to be terminated when immediate apprehension is not necessary to protect the public and officers, and apprehension at a later time is feasible. This statement says that a pursuit should end if we know who the person fleeing is, the person is not likely to harm someone, and the department can apprehend the person later.

This implies knowledge of exactly who is being pursued and the level of threat the suspect poses to the officers and the community. While it is a consideration for officers and supervisors in the field when deciding whether to continue pursuing or to terminate a pursuit, this study does not indicate a need for the practice to become policy.

2021 Summary and Conclusions

- The number of pursuits conducted is above expectations.
- The ratio of pursuits to calls for service (CAD) is 0.06%. This has increased from 0.019% in 2013. It is believed this may be due to an increased emphasis on reporting pursuits beginning in late 2013.
- The ratio of pursuits to arrests in 2021 is approximately 1.7%. This has increased from 0.25% in 2009 and from 0.69% in 2016.
- Approximately 69.2% of 2021 vehicle pursuits ended in arrest.
- The policy complies with the CALEA standard for pursuits.
- The raw data indicates that a number of pursuits were ended by the officers. This indicates that this portion of the policy continues to be used.